

**MINUTES OF THE SENATE BUSINESS & LABOR
STANDING COMMITTEE
TUESDAY, FEBRUARY 12, 2004, 8:00 A.M.
ROOM 403, STATE CAPITOL BUILDING**

Members Present: Sen. Parley G. Hellewell, Chair
Sen. Curtis Bramble
Sen. Gene Davis
Sen. Dan Eastman
Sen. Thomas V. Hatch
Sen. Ed Mayne
Sen. Carlene M. Walker
Sen. Michael Waddoups

Staff Present: Mark Steinagel, Policy Analyst
Karen Allred, Committee Secretary

Public Speakers Present: Ron D. Wilkinson, attorney
Doug Short, attorney
Ken Wallentine, Utah Peace Officers
Jim Olsen, Pres., Utah Food Industry Association
Clark Newhall, M.D., J.D.
Robyn Riggs, Chamber of Commerce
Carol Bovee, Vice President, Utah Citizens Alliance
Ted Wilson, lobbyist, I.H.C.
Shaun Foster, National Arbitration Alliance
Richard F. Labasky, President, Utah Medical Association
Brad Parker, attorney, PAMMA
Elliott Williams, attorney, Utah Medical Insurance
Jim McConkie, attorney, PAMMA
Jane Bowman, I.H.C. physician
Steve Booth, AFLCIO

A list of visitors and a copy of handouts are filed with the committee minutes.

Senator Bramble assumed the Committee Chair and called the meeting to order at 8:15 a.m.

MOTION: Sen. Mayne moved to approve the minutes of February 10, 2004.

The motion passed unanimously with Sens. Davis, Walker and Eastman absent for the vote.

1. S.B. 95 Issuing a Bad Check or Draft (P. Hellewell)

Sen. Hellewell explained the bill and proposed the following amendments:

1. *Page 1, Lines 11 through 14:*

11 This bill:

12 ▶ ~~[[removes language that exempted a person from the offense of issuing a
bad check if~~

13 ~~the person makes good on the amount of the check within 14 days of his or her~~

14 ~~receipt of notice that the check did not clear.]]~~ provides an affirmative defense if
the writer of the check does not know that the check will not clear, does not have
funds to make good on the check, and returns to the payee any property or money
obtained by the dishonored check.

2. *Page 2, Lines 34 through 41:*

34 ~~[[+]]~~ (2) Any person who issues or passes a check or draft for the payment of
money, for

35 the purpose of obtaining from any person, firm, partnership, or corporation, any
money,

36 property, or other thing of value or paying for any services, wages, salary, labor, or
rent,

37 payment of which check or draft is legally refused by the drawee, is guilty of issuing
a bad

38 check or draft if he fails to make good and actual payment to the payee in the
amount of the

39 refused check or draft within 14 days of his receiving actual notice of the check or
draft's

40 nonpayment. ~~[[+]]~~

(3) It is an affirmative defense to prosecution for issuing a bad check or draft
that:

(a) the person issuing the check or draft did not know or have reason to know that
the check or draft would not be honored by the drawee;

(b) the check or draft was dishonored because of a third party's actions that were
not authorized by the person issuing the check or draft;

(c) the person issuing the check or draft has returned to the payee any money,
goods, property, or other item of value the person received in exchange for the
dishonored check or draft, and;

(i) the goods, property, or other item of value are in substantially the same condition as when obtained by the person; and

(ii) the person returns to the payee the money, goods, property, or other item of value within 14 days of receiving actual notice the check or draft was dishonored;

and

(d) the person issuing the check or draft lacked funds sufficient to make full payment to the payee in the amount of the dishonored check or draft within 14 days of the person's receiving actual notice the check or draft was dishonored.

41 ~~(3)~~ ~~[(2)]~~ (4) An offense of issuing a bad check or draft shall be punished as follows:

MOTION: Sen. Hellewell moved to adopt the amendments.

The motion passed unanimously.

Ron Wilkinson, attorney, and Doug Short, attorney, spoke in support of the bill.

Ken Wallentine, Utah Peace Officers, and Jim Olsen, Utah Retail Merchants, withdrew former opposition to the bill.

MOTION: Sen. Hellewell moved to pass the bill out favorably.

SUBSTITUTE MOTION: Sen. Walker moved to hold the bill.

The motion passed unanimously.

2. S.B. 89 Contractor Licensing Amendments (P. Hellewell)

MOTION: Sen. Davis moved to adopt 1st Sub. S.B. 89.

The motion passed with Sen. Waddoups voting in opposition.

MOTION: Sen. Hatch moved to pass the bill out favorably.

The motion passed unanimously with Sen. Waddoups absent for the vote.

3. S.B. 245 Medical Dispute Resolution Amendments (L. Blackham)

Sen. Blackham explained the bill.

MOTION: Sen. Walker moved to go to S.B. 117.

The motion passed unanimously.

4. S.B. 117 Medical Arbitration Agreement Amendments (P. Hellewell)

MOTION: Sen. Hellewell moved to adopt **1st Sub. S.B. 117**.

The motion passed unanimously.

Speaking in support of **S.B. 245**, were Robyn Riggs, Chamber of Commerce; Ted Wilson, lobbyist, "IHC"; Richard F. Labasky, president, Utah Medical Association; Elliott Willians, attorney, Utah Medical Insurance; and Jane Bowman, physician.

Speaking in support of **S.B. 117**, were Clark Newhall, M.D., J.D.; Carol Bovee, Vice President, Utah Citizens Alliance; Shaun Foster, National Arbitration Alliance; Brad Parker, attorney, PAMMA; Jim McConkie, attorney, PAMMA; and Steve Booth, AFLCIO.

MOTION: Sen. Hatch moved to return to **S.B. 245**.

The motion passed with Sen. Waddoups voting in opposition.

MOTION: Sen. Walker moved to pass **S.B. 245** out favorably.

The motion passed with Sen. Hellewell voting in opposition.

MOTION: Sen. Mayne moved to pass **S.B. 117** out favorably.

The motion failed with Sens. Hellewell, Waddoups, Davis and Mayne voting in favor of the bill and Sens. Bramble, Eastman, Hatch and Walker voting in opposition.

Acting Committee Chair Bramble adjourned the meeting at 10:05.

Curtis Bramble, Acting Committee Chair